Editing of testimony; rights of privacy 1/5/71

The Commission staff addressed the right of privacy of witnesses and others rather early, but in this case, from File RaP 2, the researcher has to get past three attached memos before he learns this is what is really being addressed.

So extreme was this pretended interest in the right to privacy that the top memo, from "Mary" to Howard Willens, dated 7/6/64, among the questions raised in this sense was the deletion of the fact that the President wore both his back brace and an ace bandage. Arlen Specter wanted this unchanged because they "account for the President sitting erect", a point he apparently considered outweighed any right to privacy. Another is "God-Damn", said by Roy Kellerman, and a light remark to a witness, Dr. Finck, by McCloy. This memo opposes the alteration of the testimony by Specter, questioned by phone, but says nothing of "right to privacy".

Next is the 6/30/64 memo from Willens to the staff, covering "a self-explanatory memorandum prepared by Mr. Pollak commenting on several volumes of testimony to be printed..." It solicits comments and suggestions "regarding possible deletions", but makes no reference to "rights of privacy".

The attached Pollak memo of 6/18/64 also makes no reference to "right of privacy". It says that "a list of passages from the record which you will wish to consider for possible deletion" is attached. It is addressed to Rankin. Those he regards as "passages which warrant serious consideration as to their removal" are marked with an *. He also says "I would assume that a check as to each exhibit will be made before the Commission concludes its work."

By 6/18/64, the testimony through HHO was in page proof.

If Pollak's instructions were written, either I do not recall them or do not have them. They were broad or he so interpreted them. He himself notes, "I have noted such which undoubtedly should not be taken from the record." At the least, when he had this conviction and expressed it so strongly, wonderment over his directive seems warranted.

Because this was not an open, court record, it might be argued that what was the subject of testimony could be edited to protect privacy or in the interest of accuracy. It is neither uncommon nor improper for the testimony of Congressional committees to be edited in such interests, but they do not deal with the kind of subject this does, the assassination of a President and corrolary involvements.

Not until the attached list is reabbed do the words showing a pretended interest in privacy appear. It is heading, "I. Passages which if published might involve invasions of the privacy of the witness or which might be thought to be unjustifiably offensive, insulting or defamatory of some person other than the witness..." This is the way it begins.

The very first deals with a matter of relevant fact: "Reverend French did not show up' to perform funeral services for LHO." A complete record without that? Whose privacy was invaded, where there is the offense, insult or defamation, the words further qualified by "unjustifiably", in reporting the simple fact that the preacher did not perform the service, didn't appear for the funeral over which he was to have presided, of one of the murder victims whose murder was the subject of the investigation? This opening item sets the tone and reflects the real attitude toward most of the items. It should be compared with some relating to the victim, called "fair game".

The second item is the one marked with an *, indicating Pollak's belief that without doubt it should be eliminated. Therefore, because it also is utterly irrelevant and so marked, it is not indicated as deleted. She called the father of one of her co-workers "one of the biggest gangsters in Fort Worth" and said he was killed by gangsters.

It is not difficult to argue from this list and the record that "right of privacy" is often a subterfuge for suppression, including of the most basic and indispensible of all the evidence of the assassination, the nature and location of the wounds. There is no consistent standard, as with homosexuality.

The items that "undoubtedly" should have been removed and are marked with an asterisk total 13. Of these, only four are indicated as deleted. Of these four, in three cases, what was in question and was deleted is deleted from the memo by masking on three cases. The first 3H237) deals with Jack Daugherty, the second, to which I will return, with David Ferrie (8H30-1). If the third item was deleted from the printed testimony as this memo indicates, the deletion is not indicated in the printed record. Following the words of the memo, "He doesn't like priest at St. Nicholas"- there is a dash in the record and the sentence continues, not in good syntax, but witnesses often speak so. The fourth)10H73), with every word masked in the memo, is in no way reflected in the printed page nor is there any subject there discussed that seems to be the subject of proper deletion.

The second asterisk-marked item (3H138), after the gangster item, is "Mrs. Paine: Reasons for her separation from her husband." If this is less than precise, he having left her, it is also <u>not</u> deleted and would seem to be as private and personal as can be.

The next (~~8H~~ 6H321), "Charles Givens has pervious record for narcotics violation", certainly falls within the definition, but it remains in the printed testimony. This is worth comparing with the Ferrie item.

The next, (6H435), "Mrs. Roberts: To her sorrow, she was unable to bear children. She is now working for a man who has cancer." Both items and more--she married in the 9th grade- appear in the printed record.

Next (7H15): "Mr. Burroughs: He failed the Selective Service mental examination". Nit deleted.

Next(7H83) "Mr. William Smith: He had been convicted of auto theft." Reading i.

Next(7H86) "Mr. George Applin: He has be n convicted of burglary." It appears on this page as "burglary".

Next are references to four places in the record, 1(7H131-2;171-2;200-01,242) "Should the names of those being held by the police who were included in the line-up with Oswald be deleted (leaving their physical descriptions)? One of these men (Bujan) testifies at V11: 243-46". With the man a witness, how can that be hidden? And with the patently frame-up character of the line-ups, how dared an honest lawyer consider deleting anything? In any case, all the names do appear at the pages cited.

The Ferrie item deleted from O'Sullivan is next

Next (8H156): "Mr. Murret: The Junior University of New Orleans is delinquent in paying its debts." Remains in.

Next, 8H253, "Mr. Delgado. The bartender at the Flamingo bar, outside of Tijuana, ~~xx~~ visited by Oswald, was a horosexual", is one I recall wool and do not bother to check, for this is a most prejudicial formulation. Oswald was in company with his marine mates, including Delgado, and when he could have been with this homosexual he chose a woman, a whore.

The one remaining asterisked item is that in Steele's testimony.

Thus it would seem that the one item relating to either arrests or homosexuality that was deleted was that involving Ferrie, which it is stretching credulity to believe has to be accidental, particularly because it was not deleted in the sending of the transcript to the printer. Liebeler did edit his witnesses testimony.

I will not analyse and compare all those not marked as "undoubtedly" to be deleted.

However, comparisons of some with the foregoing will show the official attitudes and can be interpreted as addressing the seriousness with which "invasion of privacy" was invoked.

For example, a long list of what is described as "numerous disparaging comments about and by George DeMohrenschildt" which remain. This language is no exaggeration, some are libels.

III, the first thing on page 5, puts it all in perspective, especially when compared with the Ferrie item: "III. Thought I take it that everything about Lee Harvey Oswald is fair game and essential to a complete evaluation of the individual because a question has been raised attention should perhaps be directed to the references to him as a possible homosexual (VIII:270; VII:319); to his afflictoon with gonorrhea (VIII:312-315); and to his unsatisfactory sexual relations with Marina (VIII:396-397: VII;423-424; IX:255; IX: 252; IX:311: IX:313)".

First, essentially an aside: the venereal disease, as I recall, was contracted from a Japanese woman. The lack of satisfaction was not from any existing record on his part. This allegation really is that Marina was not satisfiedx with his performance. It can be inferred, whether or not it was intended, that this formulation serves to emphacize the allegations of homosexuality, in itself a perhaps imprecise formulation with his having had the affair with the Japanese woman, having selected the Mexican whore over the homosexual bartender, and with his having fathered two children.

But, particularly is such a "question had been raised", what better reason for not deleting the O'Sullivan reference to Ferrie's homosexual record, which was quite public anyway, with Oswald having been in the CAP when Ferrie was, especially in the context that the Commission tried first to pretend he hadn't been in the CAP at all and then that he had not been inferrie's unit?

Considering Pollak's point about the exhibits, there is a reference to Ferrie, under the name "Fairy", as a homosexual. It was rpinted even when it was know to be inaccurate in other ways. The difference is that in the exhibit the homosexual is not readily identified as David Ferrie. This question was resolved by Attorney General Mitchell, however, in his alleged personal declassification of material relating to Thomas Vallee as a homosexual. The material released in the 1970 review on Ferrie is largely about him as a homosexual. There is an abundance of never-restricted mat rial on others as homosexuals in the Commission's files. It would seem that this quite-proper basis for withholding was invoked only selectively, in the case of Ferrie, where what was otherwise not subject to withholding was also withheld. Even when the information about alleged homosexuality was given with the specific understanding it would be kept in confidence has it always been available.

There are no other references to homosexuality. However, there are other things of interest as they relate to withholding and editing and as they show official concerns, the kinds of questions that existed and were raised and considered about deletions, the bases and whether or not serious and proper withing recognized and accredited and recognized procedures, and what was marked by whoever on the staff marked this up.

Some are clearly suppressive, designed to prevent embarrassment to the government and to hide criticism of it.

What relates to the already-deficient medical evidence is especially interesting.

Some of the Equestionsof"completeness of the record" in what is described as "minor" aspects are also worth considering. Whether or not minor, the record remains incomplete and inaccurate, including when it was known to the examining lawyer to be significantly in error, where the error has to be regarded as his responsibility and that no accidentally.

Taking the last case first, for it is, in my view much more important than a casual reading of the memo by the uninformed would indicate: The last item, on page 10 (10H45,47) reads, "Have Mr. Bringuier's assertions regarding Communist associations and Castro's remarks been negated on the record." I have added emphasis because negating them elsewhere served no puppose. While the existing evidence in the Commission's files does negate them, this is irrelevant. Rollak correctly said "on the record". Now, what does Bringuier say on those pages?

Liebeler)45) tells him it isn't likely "that Oswald would go around handing out literature in the streets like he did if he was actually attempting to infiltrate the anti-Castro movement "(here involving the "infiltration" of a single man, Bringuier).

Bringuier's response is, "he didn't went openly to do that before the attempt to infiltrate the training camp; he went openly to do that afterwards after he was turned down."

Now, aside from the fact that there is no reason to believe Oswald ever attempted to infiltrate the camp, to Liebeler's own knowledge Oswald had been leafletting, publicly, often and for months prior to the date given by Bringuier. The record here is deliberately in error, for without this error there remains no explanation for Oswald's conduct and Bringuier has lost his alibi.

The article produced (40 by Hermindio Portell-Vila was proved by the FBI to be fake from beginning to end. Therefore, the record is not corrected. It is left saying that OSwald had been in Cuba twice, whereas there is not the slightest indication or even reason to suspect he had ever been there. This is repeated, and when the second time it again quotes a Castro speech, it required no FBI investigation to learn whether this was ever said. These broadcasts are carefully monitored, recorded and analyzed. A phone call is all it took. What Castro actually said was entirely the opposite.

There being no 10H495, the fourth item cannot be checked. But the second under it is interesting because, presumably, this was done a month earlier. Hoover testified 5/13 and McCone at about the same time. Also Belmont, etc. So, a month later, Rollak asks:

"Does the record contain a statement from each and every federal agency intelligence and security agency expressly stating that Oswald was never employed by it as any type of agent?"

It is a good question, for where there is the pretense of answer, it is in no case definitive. I believe there was no such question asked fo some (Archives was done from DIA), and I know of no inquiry of what could be called a "security" agency as distinguished from an intelligence agency.

2H38 has a rather novel formulation for a man known to have been shot through the head: Does the record contain anything regarding alleged shooting of Warren Reynolds?"

Part of the next question was ignored, for neither in the record nor elsewhere in the files can it be found (2H273):"...Has Tippit's background been fully investigated and made of record?"

Also apparently unrelated to the citation under which these also appear are a number of other good questions. I do not stop to check them. One, on the station wagon near the depository, is not definitely answer, to the best of my knowledge. The question included "described so as to eliminate Mrs. Paine's".

That all the affidavits need dates, should "contain the form statement of the notary indicating that the affidavits was in fact sworn to before him" and "an explanation of the manner in which they affidavits were prepared for signature by the affiant" all seem still to be lacking. It therefore cannot be considered an oversight. Mysteries remain, like in the Garner affidavit, which refers to an exhibit not made into an exhibit until a month after its execution.

Among the things Rollak did not consider "undoubtedly" should be removed are Robert Oswald's "suspected her of complicity in the assassination", hardly an inclusion calculated to protect the innocent, prevent defamation;

Scoggins arrest record;

One Murret daughter "can't have any children" and Marilyn "doesn't want to get married".

Mr. Geraci"informed FBI of his friend (Carlos Bringuier)'s activities". Hardly, from the

only material in the Archives. The citation of 1CH80. This should be checked and asked for. Mr. Robins "always has been goofy-headed."

Item 14 contains the expression of concern for "references to press inaccuracies". Also, "there is some testimony which is uncomplimentary to certain members of the press." Among these is (2H26),"Saturday Evening Post offered to pay Marina for information not known to the Commission". Had this not been in ~~xxxxxxxx~~ Marguerite's testimony, there'd have been no concern, for when more was already in the files, at least one scandal had been investigated, and LHO had the real pipeline.

Item V notes that while it "seems a vital part of the record", certain "testimony critical of local and Federal law enforcement agents" is cited: the FBI threat to Marina (she had better cooperate if she wished to stay in this country;in 75,79-80; Secret Service stole documents from Marguerite (1H129); Marguerite not allowed to see Oswald first day (1H143-and no concern expressed for his legal rights in this), and more.

Item VI is of "a possible question as to the need or the soundness of including in the record every word of medical testimony relating to the appearance of the President's body after the assassination." What better evidence of the crime and how it was committed, and of the possibilities of the manner and by whom? So, what better reason for considering eliminating it-as was done with Jackie's, and here is the only close eye-witness account possible). Next, what was eliminated, despite the opening evaluation: It is probably necessary,though unpleasant, to include the testimony regarding the medical student findind a piece of the head in the street the following day."

First of all, he did not testify and the relevent reports were not printed. Next, the finding the next day is an incredible reflection of the nature of the investigation at the scene of the crime. And, the picture is still suppressed.

"But query whether it is also necessary to include a complete description of the President's underclothing (meaning only that he wasn't wearing a top), his brace, and even down to the fact of whether or not the President was wearing an ace bandage under the brace at the time of his death". There are here absolutely no questions of taste or propriety and the only purposes for which such things could have been eliminated are suppression of evidence directly related to the possibilities of what could or could not, did or did not happen. This is warped, and is one of the questions raised with Specter.

VII is a concern for profanity of modest flavor. The one by Kellerman is the only one noted.

VII is "Miscellaneous possible deletions", The first (1H125) dealing with the removal of Secret Service protection of Marina, which she asked for, at the hearing, I note, the reason given being "in light of Mr. Thorne's request that the matter be kept secret, at least temporarily?" Is this -can it be - a serious reason when the transcripts were all classified "top secret" and when available, were available only to those who gave it?

The scond (11H381, actually asks of "Mr. McCloy's apparently jocular remarks to Colonel ~~Finch~~ Finch (sic) that he should be 'just as truthful seated as standing'", the ground being "as suggesting any doubts as to the Colonel's truthfulness?" !! Others are of like character.

Mentioning the name of the manufacturer of the ammoo (4H432) is interpreted as a "plug in the record" for Western! One wonders what was considered evidence? And what could not be asked to be deleted?

There is a cute questions asked about 4H162:"Is there any reason not to publicize Chief Curry's statement that the Dallas police had infiltrated the Dallas extremist organization?" This is singular as it appears here, including the ACLU among many others, and the suppression and deletion were such that the record was altered to make it say that exhibits actually entered into the record do not exist. I have copies, with the Exhibit No.

Even the fact that the FBI had informants in Forth Worth and Dallas (4H426-7) is considered for deletion. Again, what couldn't be?

The next item (6H41,49, is disputed by Specter, according to the "Mary" note, "is there any reason (family or otherwise) not to publicize thatbthe doctors withhold pronouncing the President dead until the last rites could be performed?" (Specter was wrong.".

The change was not made.

About 7H296, the question is asked, "does the discussion off the record suggest that something is being hidden?" Checking that page leads to this belief, whether or not any other change was made. Belin interrupts Holmes for this off-the-record discussion. When it is over, Holmes goes into an entirely different thing. That is not released.

There should be no misunderstanding. Only the beginning of the list, I., is on "invasion of privacy". But all deal with deletions from the record, the reasons in all or almost all cases being inconsistent with leaving even the inadequate record intact and with correcting known serious error in it.

However, the Ferrie deletion is unique and conspicuous. The medical concerns, frivolous as they are, are NOT under "invasions of privacy", so the Commission position can be interpreted as those not involving that. Or, putting it another way, when the desire to suppress manifested itself, this was a reason contrived to give it the semblance of propriety. I think this can be argued as the Commission position that what medical evidence was withheld was not withheld on grounds of privacy or the sanctity of medical records.

Checking the Gerard citation, it is not accurate. It is Mrs. Gerard who called the FBI. Moreover, checking the only available FBI report, dated 11/29, discloses that it is not the first or the only interview with the kid. The parents told us that the first, to the best of their recollection, was not later than Monday, 11/25/63.